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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 vs.
13 AARON EASON,
14 Defendant.

Case No. 18MJ02791

**DEFENDANT'S OPENING
BRIEF SUPPORTING RELEASE
PENDING TRIAL**

15 Defendant, AARON EASON ("Mr. Eason"), by and through his attorney of
16 record, John Neil McNicholas, hereby submits the following opening brief in
17 support of his request to be released pending trial. The proffered facts are
18 supported by the indictment and complaint filed by the government, the pretrial
19 services report, the following memorandum of points and authorities, the
20 declaration of counsel, the declaration of Brittney Welch, the attached exhibits and
21 can additionally be proven with witness testimony as well as supporting law as more
22 specifically outlined below.

23 DATED this 13th day of December, 2018.
24

25 McNICHOLAS LAW OFFICE

26 By /s/
27 JOHN NEIL McNICHOLAS, ESQ.
Attorney for Defendant,
28 AARON EASON

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I. PROCEDURAL HISTORY

A. Arrest and Detention Hearings

Mr. Eason learned that a felony criminal complaint alleging inciting and carrying on a riot had been filed in the Central District of California and a warrant had been issued for his arrest on October 25, 2018. With his attorney, Mr. Eason voluntarily surrendered to the FBI office in Westwood, California on Sunday, October 28, 2018 and has remained in custody ever since. A detention hearing was held on November 2, 2018 before Magistrate Judge Rozella A. Oliver. Bail was denied at that time. Mr. Eason filed a request for review of the magistrate's order on November 5, 2018. Because an additional declaration with some additional facts was included, that matter was heard by Magistrate Judge Oliver on November 27, 2018. Again Judge Oliver denied bail. At both hearings, Judge Oliver found that Mr. Eason was not a flight risk but was a danger to the community and no conditions or combination of conditions could be fashioned to protect the community from Mr. Eason. The order denying bail was appealed on November 30, 2018.

B. Case History

An indictment was filed on November 1, 2018. Mr. Eason is charged in count one with conspiracy in violation of 18 U.S.C. § 371 and in count two with carrying on a riot in violation of 18 U.S.C. § 2101. On November 8, 2018, Mr. Eason pleaded not guilty to the charges and the matter was set for trial on December 18, 2018. Pursuant to stipulation, the parties agreed to continue the trial until July 9, 2019. The maximum term of imprisonment if convicted of both offenses is 10 years. Because the object of the conspiracy is the substantive offense in Count 2, the crimes should be grouped together for sentencing purposes according to U.S.S.G. § 3D1.2. A co-defendant, Tyler Laube, recently entered a guilty plea to the conspiracy count alone. The agreed upon Base Offense Level is 14. U.S.S.G. § 2A2.2. Assuming no aggravating or mitigating factors, and a 2-level reduction for acceptance of responsibility, the Total Offense Level would be 12.

U.S.S.G. § 3E1.1. If Mr. Eason were afforded the same offer of compromise, since he has never been arrested in his life prior to this case, he falls within Criminal History Category I. His advisory sentencing range would include 10-16 months imprisonment.

II. FACTUAL BACKGROUND

A. The Parties Disagree as to Whether Eason's Actions amount to Criminality.

Most of the past two detention hearings were spent debating whether the facts support the government's position that Mr. Eason conspired to violate the riot act and whether he did, in fact, violate the riot act as stated in 18 U.S.C. § 2101. The charges against him are based upon Mr. Eason's alleged association with the Rise Above Movement (R.A.M.), which he disputes. As a factual matter, "R.A.M." was not a term used by anyone until after April 15, 2017, which was the last time that Eason had any association with the co-defendants in this a case or those indicted in Charlottesville, Virginia. *See* Exhibits 15 and 16. Eason intends to prepare a challenge to the riot act on its face as violating the First Amendment's freedoms of speech and association. *See United States v. Dellinger*, 472 F.2d 340 (7th Cir. 1973). Eason's counsel believes that the FBI misrepresented facts to the grand jury about the nature of Eason's association with R.A.M. along with his specific actions, and will seek dismissal of the indictment on those grounds as well in a separate filing.

B. Protecting First Amendment Rights against ANTIFA and BAMN

Antifa members believe "fascist white supremacists should not be granted the right to express their views in public," historian Mark Bray said on WYNC's On the Media. They maintain that free speech and dialogue did not prevent fascism from spreading in the 1930s, and say neofascism has to be squashed more forcefully. Antifa groups use "black-bloc" tactics, masking their identities with heavy black clothing and wearing masks. Black blocs, which originated in Germany in the 1980s, are ad-hoc groups of protesters convened for an individual event. They often

engage in targeted property destruction. Protesters using black bloc tactics are overwhelmingly white and male, according to Occupy.com, but the group demonstrating in Berkeley was a bit more diverse.¹ Antifa have turned demonstrations promoting conservative speech into dangerous mob confrontations at Berkeley, Huntington Beach and other venues throughout the United States, causing injuries, fires and massive property damage. Antifa and BAMN² succeeded in forcing cancellation of an event featuring conservative speakers like Milo Yiannopoulos on February 1, 2017, where serious damage was inflicted by Antifa members to buildings, mostly caused by fire and explosives, although rocks were thrown at police, and members of the crowd were attacked.³ Aaron Eason and others felt a need to stop the violence against the conservative point of view and protect speech from those being silenced by the left. That is where his motive is based, not in order to incite a riot as the government represents.

Despite Eason's actions being for the purpose of defending the rights of others to have free expression and thought, the government has decided to take the side of Antifa and BAMN, and prosecute Eason and his alleged associates by claiming they are motivated by white nationalism and extremism.⁴ Despite no evidence that race or religion played a part in their behavior at Huntington Beach or

¹Who exactly was it that turned Berkeley into a battlefield April 15?
<https://www.berkeleyside.com/2017/04/17/exactly-turned-downtown-berkeley-battlefield-april-15>.

²BAMN is a pseudonym for "By Any Means Necessary" which is a militant socialist group primarily responsible for the damage at the Yiannopoulos event. One of its leader, Yvette Felarca, has been inciting violence for several years, and has been arrested and charged for her actions. Felarca and her associates engaged in confrontation with the conservative/ right wing groups at the April 15, 2017 Berkeley event.

³https://www.youtube.com/watch?v=Pi_vX0tknJM.

⁴The government has seized journal writings and facebook posts wherein the government alleges Eason and others have expressed white nationalist viewpoints. Eason strongly objects to any of those irrelevant writings and postings being offered as a basis for showing he is a danger to the community or as a basis for proving the underlying crimes as they are not related in any way to the crimes charged or whether he poses a danger to the community.

1 Berkeley, the government will continue pushing this narrative.

2 Brittney Welch is a pro-Trump event organizer from San Diego. Based upon
3 Ms. Welch's organizing the San Diego event on March 4, 2017, and a subsequent
4 event in Berkeley, California on April 15, 2017, she become familiar with "Antifa."
5 According to Ms. Welch, Antifa members engage in disrupting free speech of those
6 with opposing viewpoints using various tactics, creating unbearable noise with
7 drums, horns, and music, blocking conservative marches and city traffic, as well as
8 inflicting property damage, physical violence, and general harassment.

9 Antifa members claim to be anarchists, but address each other as if they are
10 communist revolutionaries. Many of them wear masks to hide their identities when
11 they commit violent acts against the innocent. Typically Antifa seek out easy targets:
12 the elderly, handicapped, and the frail. Antifa's goal is to prevent those with whom
13 they disagree, from speaking at all. Antifa will engage in endless chants with the use
14 of sound systems in order to reach its goal of stifling speech. If there is any
15 resistance, Antifa will resort to violence as it has done so many times during and
16 since the 2016 national elections. Antifa members are usually armed with rocks,
17 bricks, bats, exploding devices, smoke bombs and food particles to hurl at those
18 whom they attempt to silence. Eason and others like him, witnessed conservative
19 groups being silenced, and wanted to do help protect these individuals from danger
20 and persecution.

21 The instant case arises from alleged physical altercations between Eason,
22 other co-defendants, alleged co-conspirators indicted in Virginia, and left wing
23 groups who appeared at organized events featuring conservative and right wing
24 speakers and marchers. Mr. Eason is alleged to have been a member of the charged
25 conspiracy for a few months in 2017, culminating with the April 15, 2017 Berkeley
26 rally. Despite the allegations in the indictment, Mr. Eason's presence was never
27 intended to incite a riot or illegal activities. His goal was to attend organized
28 events in order to protect speakers and other attendees from violent outbursts from

1 far left activists wearing masks, who had previously inflicted violence on
2 conservative citizens practicing their First Amendment rights to peacefully assemble
3 and speak. The evidence revealed to the defense clearly shows that any involvement
4 by Mr. Eason was to defend and to protect the innocent. Outside of limited
5 meetings and communications with his codefendants, he does not personally know
6 any of them and will seek severance from the remaining two co-defendants at trial.

7 **C. Defendant's Background**

8 Aaron Eason is 38 years old. His arrest on October 28, 2018 was the first
9 time in his life that he has been arrested. He was born and raised in the Central
10 District of California. He did not graduate from high school, but obtained a GED.
11 He has lived on the family property in Anza, California for most of his life. Anza is
12 a very small mountain community above Palm Springs. He lived in Portland,
13 Oregon for a few years in high school after his parents divorced. Outside of two
14 family trips as a child to Mexico, he has never been outside of the United States. Mr.
15 Eason has never owned or possessed a passport. Currently, Mr. Eason lives on the
16 Anza property with his 13 year old daughter, for whom he is the sole care giver and
17 provider. Additionally, his father, Walter, and brother, Tim share a home with them.
18 Mr. Eason's sister, Malia, her family, and his mother Nicki, reside in a separate
19 residence on the same property. Walter Eason owns the property. Walter, Malia and
20 Tim are willing sureties.

21 Mr. Eason has been allowed to live on the family property in exchange for his
22 assistance as a property maintenance worker, landscaper, handyman, and cook for
23 the family. Additionally, Mr. Eason provides landscaping work for the community
24 of Anza and Susan Eyer-Anderson, D.V.M. (*See* Exhibit 1), and yard maintenance
25 for his brother in law, Daniel Carlin, in the local area (Exhibit 2). He has also been
26 employed at a winery and a feed store in the area where he lives.

27 Eason has assisted with Wendy Streib's catering company for 9 years.
28 According to Ms. Streib, Mr. Eason is a responsible person and a great employee,

1 going above and beyond what is asked of him. He is professional and is great
2 dealing with all kinds of people, which is necessary in the food business. “He is a
3 kind and thoughtful person. He is also an amazing dad, caring for his daughter J has
4 always been his number one priority. The bond they share is something very special
5 and at 13 she needs her dad more than ever. He is a great friend, a valuable
6 co-worker and an incredible father.” *See* Exhibit 1A.

7 Walter Eason sells gold mining memberships in Temecula, California and
8 receives social security. Tim Eason is employed as a well driller in the Anza area.
9 Malia is a bookkeeper.

10 Mr. Eason was never arrested before October 28, 2018. The government has
11 called Mr. Eason a founding member of the Rise Above Movement (“R.A.M.”).
12 That statement is blatantly false. The promotional video that the government
13 provided during discovery was not produced until December 6, 2017, 8 months
14 after the 4/15/2017 Berkeley rally. *See* Exhibit 15. Another promotional video
15 published on December 17, 2017, includes all R.A.M. members posing in a group
16 shot with masks. Aaron Eason is not in that photograph. *See* Exhibit 16. Except for
17 attending a few training sessions in a park in San Clemente prior to April 15, 2017,
18 Mr. Eason never met with anyone associated with R.A.M. outside of the planned
19 events.

20 The training sessions which the government claims involve “hand to hand
21 combat” were focused on self defense techniques. Mr. Eason never wore a mask or
22 other costume to a rally, speech or political event. Despite the allegation in the
23 complaint and indictment, Mr. Eason never taped his hands at a rally. Mr. Eason
24 never brought a weapon, stick or shield to an event. Mr. Eason has never been to
25 Charlottesville, Virginia. Mr. Eason believed that the conservative/ right wing point
26 of view needed to be protected.

27 The government has repeatedly argued that Mr. Eason is a danger to the
28 community because he is a “white nationalist.” It is anticipated that the government

1 will attempt to introduce inflammatory writings allegedly written by Eason which
2 appear anti-Semitic in nature in order to show that he is a danger to the community.
3 Mr. Eason vigorously opposes the government's request to introduce any evidence
4 which involves an effort to show hatred toward a religious or racial group, unless
5 the alleged hatred can be tied to actions or attempted actions by Mr. Eason which
6 show that he is an actual danger to the community. Thought and association are still
7 protected by the First Amendment, which is why the government must be forced to
8 link Mr. Eason's alleged thoughts to actual danger.

9 **D. San Diego**

10 Brittney Welch, age 31, was the organizer of March 4 Trump in San Diego
11 where she met Aaron Eason. (See attached declaration of Brittney Welch). In early
12 2017 she saw on social media that a group was planning a march supporting
13 President Trump in Berkeley, California. She contacted the web site, and asked if
14 any similar events were planned in San Diego County, where she lives. She agreed to
15 organize an event called the March for Trump on March 4, 2017 in Ruocco Park
16 near downtown San Diego. This was the same label as the Northern California
17 event held in Berkeley on the same day organized by Rich Black. It was included
18 within the "Freedom Rally" which was permitted in San Diego and included
19 speakers. She did not invite anyone to protect speakers or participants in the march.
20 Approximately 150-200 people participated in the San Diego march. Meanwhile
21 Antifa totally destroyed the Rich Black event on the same day.

22 Aaron Eason attended the San Diego march and rally. Several people who the
23 government considers "white nationalists" also attended. The government has
24 recently produced photographs of Mr. Eason and alleged "R.A.M." associates at the
25 San Diego event. No illegal activities involving Eason or alleged R.A.M. associates
26 occurred in San Diego. See Exhibit 17. Looking at the photograph, it is easy to see
27 that nobody in the group wore masks or other costumes or sought to be
28

1 intimidating.⁵ Although Antifa was unable to disrupt the rally. The San Diego police
2 performed an excellent job in protecting the speakers and marchers. It was a
3 successful event. Aaron Eason was at the San Diego event and was not involved in
4 any confrontational activity.

5 **E. Huntington Beach**

6 The Huntington Beach event on March 25, 2017 was a pro Donald Trump
7 rally and march featuring several speakers. It started as a very positive event. There
8 was no reason for Antifa to be at this location except to stifle the free speech of the
9 Trump supporters. But Antifa appeared. They made noise, yelled and kicked sand at
10 the marchers. At some point, Antifa blocked the march route and innocent
11 participants were hurt. Several innocent participants were punched by Antifa
12 without provocation. The event organizer, Jennifer Sterling was sprayed with mace
13 by an Antifa member while she attempted to separate a fight between a Trump
14 supporter and an Antifa. *See* Exhibit 9A. Tyler Laube was arrested at this event for
15 punching an OC Weekly reporter after the event organizers lost control. Aaron
16 Eason was at the event but he avoided violent altercations. *See* Exhibit 9.

17 **F. Berkeley Rallies**

18 Rich Black subsequently informed Ms. Welch that he wanted to organize a
19 Berkeley a free speech rally on April 15, 2017 featuring several speakers. *See* Exhibit
20 8. Mr. Black felt that the event would turn violent as it had during his previous
21 March 4 Trump where his speakers were rendered useless by Antifa presence and at
22 the Milo Yianopolous event where hundreds of thousands of dollars in damage was
23 caused by fire and destruction perpetrated by Antifa obstructionists. Based on that
24 belief, Mr. Black intended to build a wall around speakers, record Antifa and have
25 people in attendance who would defend against violence. He asked Ms. Welch and
26

27 ⁵If the Court looks at subsequent video and photos, it will notice that as the
28 “R.A.M. movement” developed without Eason, and participants wore masks, tape
and held banners, Mr. Eason was not included.

1 her recruits to go to Berkeley to support his event.

2 Ms. Welch invited Aaron Eason to assist her and the free speech rally
3 organizers in maintaining order and defending attendees against violence from
4 Antifa members. Ms. Welch asked Mr. Eason to invite friends to assist in
5 protecting speakers and innocent bystanders from violent acts of those seeking to
6 prevent free speech. All travel expenses for Aaron Eason were going to be paid by
7 the event organizers. Brittney Welch paid for Mr. Eason's hotel room with the
8 expectation that Rich Black would reimburse her. Rich Black met with each
9 volunteer by conference call prior to the event, including Ms. Welch and Aaron
10 Eason, to discuss roles during the event.

11 Aaron Eason and his companions had no weapons at San Diego or
12 Berkeley. Antifa had weapons including bricks, mace, explosive devices, and food
13 items which they threw at speakers and participants. Eason and Ms. Welch's
14 purpose at Berkeley was to protect the innocent and deter Antifa from fighting.
15 Although video shows Aaron Eason engaged in two fist fights at Berkeley, Ms.
16 Welch did not observe those despite her close proximity. However, video from the
17 Berkeley event shows Aaron Eason peacefully engaging a masked Antifa member in
18 a political discussion regarding the "Trump dossier." See screen shot from video
19 attached as Exhibit 10.

20 The body worn videos from Berkeley Police Dept which are in discovery
21 show how the park was divided on April 15, 2017. The Rich Black- led conservative
22 group had obtained permits and utilized a designated speaking area. The police
23 anticipated Antifa's presence, so it created arbitrary borders with orange mesh. In
24 between each border, the police patrolled. Eason, the event organizers, supporters,
25 and onlookers, and some Antifa members who wished to have meaningful
26 discussions were on one side of the arbitrary border. The majority of Antifa who
27 wore black costumes with black masks, remained on the other side of the arbitrary
28 border.

1 Mr. Eason's goals were to protect the free speech and assembly rights of the
2 innocent, and not to act as an agitator or aggressor. He believed that it was
3 important to remain visible, as the aggressors all wore black. Therefore wearing a
4 light colored shirt would make any acts of self defense noticeable to onlookers.
5 Eason never believed that wearing a mask or other means to hide his identity was
6 appropriate. Eason did not believe that taping his hands was appropriate since he
7 did not intend to provoke or initiate physical contact or violence.

8 Fist fights occurred at the April 15, 2017 event. Ms. Welch asserts that
9 violence in Berkeley erupted when Antifa started pushing everyone into a protected
10 area. Antifa still threw M-80s and sprayed mace beyond the protected area. Elderly
11 people were injured. Berkeley police sat still as Antifa threw large rocks which
12 struck innocent people. Ms. Welch was running away and M-80s were popping by
13 her ear. Mr. Eason was filmed in two fights. One of the fights involving Eason
14 occurred as he attempted to rescue a man who was randomly attacked by Antifa as
15 he and his friend walked through the park. Simultaneously, an exploding device
16 which appeared to be thrown from Antifa, exploded near the location where Eason
17 was standing, and the Antifa crowd cheered wildly. Eason breached the barrier in
18 order to attempt to help the man who he thought was a victim. Instantaneously a
19 crowd of Antifa stormed toward him. Government produced videos show Eason
20 being attacked by an Antifa member, who attempted to punch Eason, tackled
21 Eason, and would not release until Eason punched and elbowed the assailant. After
22 the assailant released Eason, Eason returned to his station to provide defense to the
23 speakers and other attendees. (*See* Exhibit 13A-D). Interestingly, the assailant was
24 not finished as he then attempted to attack alleged co-conspirator Ben Daley, but
25 was intercepted by alleged co-conspirator Mike Miselis. (*See* Exhibit 13E).
26 The man walking through the park then emerged with his bloody wounds, although
27 it appears that he fought back before he was injured. Exhibit 13F.

28 After the crowds dispersed from the park to the street, Antifa member Eric

1 Clanton was filmed severely injuring an unsuspecting Donald Trump supporter
 2 engaged in political discourse with a bicycle lock and chain (Exhibit 4). Louise
 3 Rosealma, of Oak Roots Collective was filmed carrying a wine bottle as a weapon
 4 (Exhibit 5). Exhibit 6 shows Antifa attempting to shut down traffic in Berkeley, and
 5 “Trump supporters” assisting the vehicles in avoiding violent damage caused by
 6 Antifa. Exhibit 6 also shows an Antifa member striking a Trump supporter with a
 7 skateboard. General disgraceful and offensive behavior is shown in Exhibit 7 where
 8 an Antifa member with motorcycle helmet seizes water from a World War II
 9 veteran in wheelchair and then sprays it all over the helpless victim.

10 The government has produced facebook posts where Mr. Eason asked for
 11 volunteers to go to Berkeley for a subsequently planned free speech event featuring
 12 Ann Coulter on April 27, 2017. Eason went with a friend to the scheduled event. A
 13 few days before her scheduled speech, Ms. Coulter’s invitation was rescinded by the
 14 sponsoring organization so she did not attend. The rally occurred and Eason
 15 attended. Antifa was not present. There were no issues. Nobody from R.A.M.
 16 attended this event.

17 **G. Anti Sharia March, San Bernardino, June 10, 2017**

18 Mr. Eason attended an event in San Bernardino which involved anti-Islamic
 19 speech, but was also intended to honor those slain and seriously injured by Jihadists
 20 two years earlier at the same location. R.A.M. members also attended the San
 21 Bernardino event. The government has repeatedly stated that Eason participated in
 22 vandalizing an automobile at that event with R.A.M. members. At that time he was
 23 no longer associated with any R.A.M. members, and was not involved in any acts of
 24 violence or vandalism.⁶ Three men were arrested on suspicion of vandalism for
 25

26
 27 ⁶Defense counsel has requested that the government produce any evidence to support its
 28 claim that Eason was involved in vandalism in San Bernardino prior to filing this brief. Although
 the government has provided a few photographs from San Bernardino, none involve vandalism
 or acts of violence.

1 smashing out the windows of a car. San Bernardino Chief of Police Jarrod Burguan
 2 said the men were from San Diego, San Clemente and Torrance.⁷ Eason is from
 3 Anza, California. He was not one of those arrested for vandalism.

4 **H. Mr. Eason voluntarily surrendered to the FBI**

5 Mr. Eason learned that a warrant had been issued for his arrest on October
 6 25, 2018. Not understanding the legal system, Mr. Eason attempted to contact
 7 criminal defense attorneys in his area. Eventually, Mr. Eason decided to contact
 8 attorney Augustus Invictus who is based in the State of Florida. On October 26,
 9 2018, Mr. Invictus agreed to represent Mr. Eason and immediately made plans to
 10 travel to see Mr. Eason in California. Mr. Invictus feared that the FBI would not
 11 potentially place Mr. Eason in a position of peril. Therefore, Mr. Invictus advised
 12 Mr. Eason to wait for Mr. Invictus to travel from the State of Florida to Mr. Eason's
 13 home so that they could drive together to the FBI office in Westwood and Mr.
 14 Eason could voluntarily surrender. Mr. Eason voluntarily surrendered to the FBI
 15 office on Sunday, October 28, 2018 and has remained in custody ever since.

16 **I. Brittney Welch's Subsequent contact with Aaron Eason**

17 Ms. Welch communicated with Aaron Eason several times since the San
 18 Diego event in March, 2017 and has been in his presence on several social
 19 occasions. According to Ms. Welch, on a typical day, Aaron Eason was either
 20 working on the family ranch or trying to make money. Based upon socializing
 21 several times together, Ms. Welch does not believe that Aaron Eason is a danger to
 22 anyone. Ms. Welch shared that opinion at the hearing on May 27, 2018.

23 **III. ARGUMENT**

24 18 U.S.C. § 3142 "mandates the release of a person pending trial
 25 unless the court 'finds that no condition or combination of conditions will

26
 27
 28 ⁷[https://www.sbsun.com/2017/06/10/san-bernardino-anti-islamic-law-rally-and-counter-protests-t
 trigger-violence/](https://www.sbsun.com/2017/06/10/san-bernardino-anti-islamic-law-rally-and-counter-protests-trigger-violence/)

1 reasonably assure the appearance of the person as required and the safety of any
 2 other person and the community.” *United States v. Hir*, 517 F.3d 1081, 1086 (9th
 3 Cir. 2008) (*quoting* 18 U.S.C. § 3142(e)).

4 **A. Flight Risk**

5 In order to detain Mr. Eason, the Government must prove by a
 6 preponderance of the evidence that the defendant is a flight risk. The magistrate
 7 has found that Mr. Eason is not a flight risk.

8 The relatively low prison exposure (5 years maximum on each count with a
 9 likely sentencing guideline range of 10-16 months) would not justify any reasonable
 10 person to flee. Additionally, it would be grossly unfair to Mr. Eason to allege that he
 11 was a fugitive from justice, and thus a flight risk, when he voluntarily surrendered to
 12 the FBI Los Angeles office only a few days after learning that a warrant had been
 13 issued for his arrest. As stated above, he consulted with legal counsel who was
 14 worried that the FBI could inflict violence upon Mr. Eason, and therefore instructed
 15 him to wait patiently for his arrival from Florida so that they could surrender at the
 16 office of the FBI which they did on a Sunday afternoon.

17 **B. Danger to Community**

18 Additionally, the Government must prove by clear and convincing evidence
 19 that Mr. Eason is a threat to the community. 18 U.S.C. § 3142(f). Clear and
 20 convincing evidence means proof that a particular defendant actually poses a
 21 danger, not that a defendant in theory poses a danger. *United States v. Patriarca*, 948
 22 F.2d 789 (1st Cir. 1991). Although the magistrate found that Mr. Eason is a danger
 23 to the community, the Court did not articulate reasons which make him an actual
 24 threat to the community and why no conditions could be fashioned to prevent those
 25 actual threats. If Aaron Eason is considered a danger because he fought at political
 26 events, conditions could easily be fashioned to eliminate the risk of danger.

C. Certain factors are outlined in 18 U.S.C. 3142(g) for the Court to Consider in determining whether a person should be released.

The history and character of the person, including the length of his residence in the community, community ties, the status and history of his employment, his relationships with his spouse, children, parents and other members of his family and with his close friends, his reputation, character and mental condition are all factors which the court may consider in evaluating whether a defendant is a flight risk or a danger to the community. “Community ties” means both the community of arrest and the community where the defendant normally resides. *United States v. Townsend*, 897 F.2d 989 (9th Cir. 1990).

Mr. Eason has strong ties to the community, where he has been a resident for virtually his entire life. All of his relatives, including his mother, father, brother, sister, and daughter, not only live in the Central District of California, but live on the same property. Mr. Eason is the sole care giver of his 13 year old daughter. That duty has been placed upon Mr. Eason’s sister since he self surrendered on October 28, 2018.

Other factors for the Court to consider are Mr. Eason’s lack of a prior criminal arrest or conviction record, the nature of and circumstances of the offense with which he is charged, including whether it is a crime of violence or drugs. The weight of evidence against the person is the least important factor because the Court cannot make a pretrial determination of guilt. *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985). It is unfortunate that we continuously relitigate the charges in this case. But what is critically important is that even if the evidence shows that Eason committed the crimes charged, he should still be released because he does not pose a risk of harm to his community.

Since the indictment emphasizes a lengthy pattern of the alleged unlawful activity, the only time that Eason is actively engaging in physical confrontation is at the April 15, 2017 Berkeley rally. Although there is evidence that Mr. Eason rented a

1 van⁸ and traveled to Berkeley with other participants, there is no evidence that he
2 traveled to Berkeley with the intent to incite or carry on a riot. The evidence reveals
3 that the two physical altercations involving Eason show him defending himself from
4 assaults, and not what the government has represented. For instance, screen shots
5 from government video which clearly show Eason defending himself from Antifa
6 assailant after attempting to rescue a potential victim. *See* Exhibit 13A-F.

7 Also, the Court must consider the nature and seriousness of the danger to any
8 person of the community that would be posed by the person's release. Mr. Eason
9 has never been arrested in his life prior to submitting himself to the FBI on October
10 28, 2018. He has no history of violence, including in this FBI investigation, where
11 the only alleged evidence is of his renting a van to go to Berkeley, of passing a
12 message along for defensive training, and of him standing nearby when physical
13 altercations occurred.

14 Mr. Eason does not wish to be associated with any acts of violence or inciting
15 riots. He has lived a law abiding life despite the allegations in the complaint and
16 indictment. The group formerly known as R.A.M. no longer exists as most of its
17 participants are incarcerated. A condition that Mr. Eason not attend political events,
18 rallies or marches will reasonably assure that he not engage in the type of behavior
19 which led to his indictment in this case. There is no doubt that a combination of
20 conditions could be set to ensure that Mr. Eason is not a flight risk or a danger to
21 the community.

22 At the November 27, 2018 detention hearing, the government argued that
23 eight defendants had been charged in two cases which include the instant case as
24 well as the case in Charlottesville, Virginia, and that all eight defendants remained in
25 custody. That argument was made to justify the Court's refusal to release Eason.

26
27
28 ⁸Eason was the only passenger old enough to sign the rental agreement. The credit card
used to rent the van belonged to another passenger.

1 The government did not disclose to the Court that it previously stipulated to the
2 release of co-defendant Tyler Laube who had recently entered a guilty plea to count
3 one, and faces a likely term of imprisonment. Mr. Laube was already a convicted
4 felon, having committed the crime of robbery and was on probation for that
5 offense, prior to the government's agreeing to his release. Additionally, Mr. Laube is
6 the defendant who was filmed punching a reporter at the Huntington Beach event.

7 The magistrate refused to comply with the stipulation to release Mr. Laube.
8 However, this Court entered a release order on \$175,000 unsecured bond, with
9 \$25,000 promised from six different people. The only conditions on the bond are
10 that Mr. Laube avoid contact with Frank Tristan, the O.C. Weekly intern struck by
11 Laube, Brian Feinzimer, a photographer from the O.C. weekly who was struck at
12 the Huntington Beach event, Britt[ney] Welch⁹, who does not know and has never
13 met Tyler Laube, and any member of any white nationalist organization.

14 A final argument made at the November 27, 2018 hearing, and which needs
15 to be made again, is that detention in this matter is unreasonable considering the
16 likely sentencing guideline range if convicted. Laube's agreed upon Base Offense
17 Level is 14. U.S.S.G. § 2A2.2(a). If Eason were to enter the same guilty plea and
18 the Court awards a 2-level reduction for acceptance of responsibility, the advisory
19 guideline range is 10-16 months imprisonment. Eason has already shown the
20 Court several reasons why he is innocent of the charges against him. His services to
21 assist in his own defense are necessary to his counsel. It is extremely difficult, if not
22 impossible, to assist his own defense while he is incarcerated. At the time of the
23 trial, Mr. Eason will already be time served by the above calculations. Detaining
24 him unfairly motivates him to enter a guilty plea simply for the opportunity to be

25
26
27 ⁹It is unknown whether the government believes Brittney Welch is a victim or a member
28 of a white nationalist organization. Ms. Welch, who is Filipino and African American, is not a
white nationalist.

1 released from custody.¹⁰

2 **IV. Proposed Release Order**

3 Mr. Eason is prepared to be a model defendant on pretrial release and will
4 respect and abide by any condition or combination of conditions which the Court
5 may impose. If released, he will return to his home in Anza, California where he
6 will live with his daughter, father, brother, and where his sister and mother live in a
7 separate structure on the same property.

8 Mr. Eason proposes the following release order:

9 1. An appearance bond be posted in the amount of \$175,000.00
10 apportioned to his father, Walter Eason, sister, Malia Carlin, brother-in-law Danny
11 Carlin and brother, Timothy Eason at \$43,750.00 each.

12 2.. Pretrial Supervision which includes:

13 a) Mr. Eason's executing a declaration that he does not possess a
14 passport.

15 b) Mr. Eason's travel to be restricted to the Central District of
16 California and to reasonable curfew restrictions.

17 c) Mr. Eason should not be permitted to enter any airport, seaport,
18 railroad, or bus terminal which permits exit from the Continental United States or
19 area of restricted travel without Court permission.

20 d) Mr. Eason's residence is to be approved by Pretrial Services and
21 shall not relocate without Pretrial Services approval.

22 e) Mr. Eason must avoid all contact with co-defendants or potential
23 witnesses.

24
25 ¹⁰ See an example how unreasonable and excessive bail in Los Angeles coerces innocent
26 defendants to enter guilty pleas:
27 <https://www.latimes.com/opinion/op-ed/la-oe-raphling-bail-20170517-story.html>. Such
28 unreasonable standards led the California to legislature to pass bail reform in 2018. Under Senate
Bill 10, California will replace bail with "risk assessments" of individuals and non-monetary
conditions of release. Counties will establish local agencies to evaluate any individual arrested on
felony charges for their likelihood of returning for court hearings and their chances of re-arrest.

1 f) Mr. Eason is prohibited from attending political events, rallies an
2 marches regardless of what group has planned to attend or participate.

3 g) Mr. Eason is prohibited from associating with any white nationalist
4 organization.

5 h) Mr. Eason is not to use or possess illegal drugs, possess firearms,
6 and agrees to search and seizure of his person and property.

7 I) Mr. Eason will seek and/ or maintain employment during the period
8 leading up to his trial.

9 **V. CONCLUSION**

10 Based upon the foregoing, defendant AARON EASON respectfully
11 requests that this Honorable Court release him pursuant to the above-stated
12 conditions.

13 DATED this 13th day of December, 2018.

14
15 McNICHOLAS LAW OFFICE

16
17 By /s/
18 JOHN NEIL McNICHOLAS, ESQ.
19 Attorney for Defendant,
20 AARON EASON
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DECLARATION OF JOHN NEIL McNICHOLAS

I, John Neil McNicholas, do hereby declare under penalties of perjury that the following is true.

1. I am an attorney duly licensed in the State of California and I am attorney of record for Aaron Eason in *United States of America v. Rundo, et al*, CR 18-00759-4.

2. Exhibit 1 is true and correct copy of a character letter from Susan Eyer-Anderson, D.V.M.

3. Exhibit 1A is a true and correct copy of a character letter from Wendy Streib.

4. Exhibit 2 is a true and correct copy of a character letter from Daniel Carlin.

5. Exhibit 3 is a press photograph display of the four defendants in this case which visually illustrates that Eason was never a member of R.A.M.

6. Exhibit 4 is true and correct copy of a screen shot of an unsuspecting Trump supporter being struck over the head by a bicycle lock swung by Antifa member and school teacher Eric Clanton.

7. Exhibit 5 includes true and correct copies of screens shot of Oak Roots Collective member Louise Rosealma planning to “disrupt the Neo Nazi white circle jerk today and bring back 100 Nazi scalps” and Rosealma carrying a wine bottle as an assault weapon at the April 15, 2017 Berkeley rally.

8. Exhibit 6 is a true and correct copy of Antifa attempting to shut down traffic in Berkeley, and “Trump supporters” assisting the vehicles in avoiding violent damage caused by Antifa. Exhibit 6 also shows an Antifa member striking a “Trump supporter” with a skateboard.

9. Exhibit 7 is a true and correct copy of a screen shot of an Antifa member seizing a World War II veteran’s water bottle and drenching the helpless man at the Berkeley rally.

10. Exhibit 8 is a true and correct copy of a screen shot of a government-produced video showing the right wing speaker list at Berkeley on April 15, 2017.

1 11. Exhibit 9 is a true and correct copy of a screen shot of Aaron Eason
2 acting peacefully at the Huntington Beach Make America Great Again march and
3 rally on March 25, 2017.

4 12. Exhibit 9A is a true and correct copy of a screen shot of event organizer
5 Jennifer Sterling after being sprayed by mace by an Antifa member at the
6 Huntington Beach Make America Great Again march and rally on March 25, 2017.

7 13. Exhibit 13A is a true and correct copy of a screen shot from a
8 government-produced video of an Antifa attacker swinging his fist at Aaron Eason.
9 Eason is shown blocking the attempted punch.

10 14. Exhibit 13B is a true and correct copy of a screen shot from a
11 government-produced video of an Antifa attacker tackling Aaron Eason.

12 15. Exhibit 13C is a true and correct copy of a screen shot from a
13 government-produced video of Aaron Eason wrestling the same Antifa attacker to
14 the ground.

15 16. Exhibit 13D is a true and correct copy of a screen shot from the
16 government-produced video showing Eason using his fists and elbows to force the
17 Antifa attacker to release him.

18 17. Exhibit 13E is a true and correct copy of a screen shot from the
19 government-produced video showing the same attacker attempting to attack Ben
20 Daley after his attack on Eason. Mike Miselis stops the attacker before he reaches
21 Daley.

22 18. Exhibit 13F is a true and correct copy of a screen shot from another
23 government-produced video showing the Trump supporter who beaten by Antifa,
24 which caused the reaction by Eason to leave the designated area to help defend him.

25 19. Exhibit 14 is a true and correct copy of a screen shot from the
26 government-produced video showing organizer Brittney Welch standing behind
27 Eason on April 15, 2017. This screen shot also depicts the racial diversity of the
28 advocates on Eason's side of the fence, which contradicts the government's

1 representations.

2 20. Exhibit 15 is a true and correct copy of a screen shot from the
3 government-produced video showing a trailer of a recruitment video by a new
4 organization calling itself R.A.M, produced on December 6, 2017, long after the
5 Berkeley rallies.

6 21. Exhibit 16 is a true and correct copy of a screen shot from the
7 government-produced video showing another R.A.M. recruitment video produced
8 on December 17, 2017 showing all R.A.M. members posing in their masks. Aaron
9 Eason is not part of this group.

10 22. Exhibit 17 is a true and correct copy of a photograph of several
11 gentlemen taken at the March 4 Trump event in San Diego. Not everyone in the
12 photograph is an alleged co-conspirator in this case. Additionally, The cropped
13 photograph deletes others who were not involved with the alleged conspiracy in this
14 case.

15 23. I have spoken to Brittney Welch regarding Tyler Laube. Ms. Welch
16 confirmed that she does not know and has never met Tyler Laube.

17 Dated this 13th day of December, 2018 in Redondo Beach, California.

18
19 /s/ John Neil McNicholas
20 John Neil McNicholas
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Aaron Eason
6

7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 vs.
13 AARON EASON,
14 Defendant.

Case No. 18-00759-CJC-4

**DECLARATION OF BRITTNEY
WELCH IN SUPPORT OF
AARON EASON'S RELEASE
PENDING TRIAL**

15 I, Brittney Welch, do hereby declare under penalties of perjury that the
16 following is true.

17 1. I am a 31 yrs old African American/ Filipino mother of one child studying
18 respiratory therapy near my home in San Diego County.

19 2. I do not choose a political party. I am not a member of any political
20 organization. However I consider myself slightly conservative.

21 3. I was not involved in politics until I enrolled in global studies at Cal State
22 San Marcos and learned about the negativity of the mainstream media toward
23 conservative candidates and elected officials along with favoritism showed for
24 liberal/ progressive candidates and elected officials.

25 4. I am a supporter of President Donald J. Trump and wanted to express my
26 support following his election as our nation's forty fifth president. In early 2017 I
27 saw on social media that a group was planning a march supporting President Trump
28

1 in Berkeley, California. I contacted the web site, and asked if any similar events
2 were planned in San Diego County, where I live.

3 5. Corrine Braune responded that no similar events were planned in San
4 Diego but advised that I could be the organizer of a San Diego event which she
5 would support. I agreed to organize an event .

6 6. I organized the March for Trump on March 4, 2017 in Ruocco Park near
7 downtown San Diego. This was the same label as the Northern California event
8 held in Berkeley on the same day. I was able to include the march within the
9 “Freedom Rally” which was permitted in San Diego and included speakers.

10
11 7. Ms. Braune helped me set up a page on Facebook to advertise the San
12 Diego March 4 Trump. I did not invite anyone to protect speakers or participants
13 in the march.

14 8. Approximately 150-200 people participated in the San Diego march.

15 9. Based upon my organizing the San Diego event, a subsequent event in
16 Berkeley, California, I have become familiar with a group known as “Antifa.” Antifa
17 members engage in disrupting free speech of those with opposing viewpoints using
18 various tactics, which include overwhelming conservative speeches and rallies with
19 drums, horns, music and other noise making equipment, blocking conservative
20 marches and city traffic, as well as inflicting property damage, physical violence, and
21 harassment.

22 10. Antifa members were present in San Diego but were unable to disrupt the
23 rally. The San Diego police performed an excellent job in protecting us. It was a
24 successful event. Aaron Eason was at the San Diego event and was not involved in
25 any confrontational activity.

26 11. I did not participate in a subsequent Bolsa Chica event which was a pro-
27 Trump march. Aaron Eason was at the Bolsa Chica event. I have reviewed film
28 where Mr. Eason attempts to keep peace between marchers and Antifa. See Exhibit

1 9.

2 12. Rich Black informed me that he wanted to organize a subsequent
3 Berkeley event which he called, "Berkeley 2.0," a free speech rally. He asked my
4 group to go to Berkeley to support his event. Mr. Black felt that because Berkeley
5 was so liberal, that the event would turn violent. Based on that belief, Mr. Black
6 intended to build a wall around speakers, record Antifa and have people in
7 attendance who would defend against violence.

8 13. I invited Aaron Eason to assist me and the free speech rally organizers in
9 maintaining order and defending attendees against violence from Antifa members at
10 the April 15, 2017 Berkeley rally.

11 14. When I invited Aaron Eason, and asked him to invite friends to assist in
12 protecting speakers and innocent bystanders from violent acts of those seeking to
13 prevent free speech. All travel expenses for Aaron Eason were going to be paid by
14 the event organizers. I paid for Mr. Eason's hotel room with the expectation that
15 Rich Black would reimburse me.

16 15. I knew that Aaron Eason never laid a hand on anyone at prior events.
17 Aaron and friends had no weapons. Antifa had weapons.

18 16. We were not at Berkeley to fight anyone. Our goal was to protect and
19 deter Antifa from fighting. Video from the Berkeley event shows Aaron Eason
20 peacefully engaging a masked Antifa member in a political discussion regarding the
21 "Trump dossier." See screenshot from video attached as Exhibit 10.

22 17. Violence in Berkeley erupted when Antifa started pushing everyone into
23 a protected area. Antifa still threw M-80s and sprayed mace beyond the protected
24 area. Old people were getting hurt.

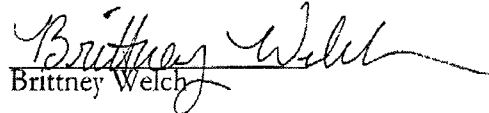
25 18. Berkeley police just sat there and watched as Antifa was throwing large
26 rocks, random innocent people were getting hit. I was running away and M-80s were
27 popping by my ear. An Antifa member who was a Berkeley teacher threw his lock at
28 an unsuspecting victim.

1 19. I have communicated with Aaron Eason several times since the San
2 Diego event in March, 2017 and have been in his presence on several social
3 occasions. On a typical day, Aaron Eason was either working on family farm or
4 trying to make money.

5 20. Aaron Eason is not a racist and has never been affiliated with the Rise
6 Above Movement.

7 21. Aaron Eason is a nice, gentle person and not a danger to anyone.
8

9 Dated this 19 day of November, 2018 in Oceanside, County of San Diego,
10 California.

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12 
13 Brittney Welch
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